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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

MEMORANDUM

SUBJECT: Accepting Nonhazardous Wastes After Losing
Interim Status

FROM: Gene A. Lucero, Director *Gene A. Lucero*
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TO: Hazardous Waste Division Directors
Regions I - X

This memorandum provides guidance on whether and under what circumstances a land disposal facility may continue accepting non-hazardous wastes after losing interim status on November 8, 1985.

On September 25, 1985 EPA's policy regarding the Loss of Interim Status provision (Section 3005 (e)(2) of RCRA, as amended) for interim status land disposal facilities was published in the Federal Register (50 FR 38946). The notice stated that owners and operators of interim status land disposal facilities that lose interim status as a result of failure to apply for a final permit determination and/or to certify compliance with all applicable ground-water monitoring and financial responsibility requirements must stop introducing wastes into affected facilities or units on November 8, 1985. The purpose of this memorandum is to clarify the policy with respect to the receipt of nonhazardous wastes by those facilities that no longer have interim status.

The Agency considers it good practice to close hazardous waste land disposal units or facilities as soon as they are no longer needed to manage hazardous waste, in order to minimize the likelihood of environmental and human health damage. Therefore, units that are required to close should be closed expeditiously; they should not be allowed to remain open solely for the purpose of receiving nonhazardous wastes. The Agency is currently completing a rulemaking to specify this requirement in the regulations. See, proposed §§264.112 (c) and (d)(2) and 265.112 (c) and (d)(2) and associated preamble, 50 Federal Register 11068, 11073 (March 19, 1985).

While the unit or facility is undergoing closure, nonhazardous wastes may continue to be received, provided that such receipt does not delay the beginning or performance of closure activities and does not impair the effectiveness of the closure activities. Once closure is completed, however, nonhazardous wastes may only be disposed of in the land disposal unit under certain very limited circumstances. [See 265.117 (c)]. 1/

The closure process itself is required to be expeditious. The regulations require that the owner or operator must submit the closure plan for the facility within 15 days after the termination of interim status. The regulations also specify timeframes for approval of the closure plan within 180 days of its receipt. The owner or operator must treat, remove from the site, or dispose of on-site all wastes within 90 days after receiving the final volume of hazardous waste (or 90 days after approval of the closure plan, if that is later). And finally, all closure activities must be completed within 180 days after receipt of the final volume (or 180 days after approval of the closure plan, if that is later). Only under certain circumstances may closure activities take longer than these prescribed timeframes.

In light of the above deadlines, the receipt of nonhazardous wastes during closure should generally be limited to a brief period of time. While §265.113 does allow an extension of the closure-completion deadline if the closure activities of necessity will take longer than the specified time, such an extension cannot be used to permit the continued receipt of nonhazardous waste.

In the event Regional or State personnel determine that the placement of nonhazardous wastes in a hazardous waste management unit may pose a significant environmental or public health hazard, several actions should be taken. First, the facility owner should be reminded that the continuation of the activity may complicate the closure process and increase closure costs. Second, appropriate Federal or State enforcement authorities should be used to prohibit disposal of nonhazardous waste into the unit. In addition, when appropriate, the review of the closure plan for the facility or unit should be expedited, and appropriate restrictions imposed via the closure plan approval process.

1/ Nonhazardous wastes may, however, be disposed of in a nonhazardous waste unit even if hazardous waste units at the facility are closing, provided that closure of the hazardous waste disposal units is not impaired.